**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

NOTICE OF MOTION NO.1825 OF 2006
IN
INCOME TAX APPEAL LODGING NO.993 OF 2006

The Commissioner of Income Tax
Mumbai City 17. ..Petitioner.
Vs.
M/s. K.P.Gupta and ors. ..Respondents.

Mr.R.G.Bhat for the Petitioner.

Mr.A.K.Jasani for the Respondents.

**CORAM : F.I. REBELLO &**
**R.S. MOHITE, JJ.**
**DATED : 3RD DECEMBER,2007.**

PC :

1. There is a delay of 311 days in filing the appeal. There is an affidavit in support of Mr.B.R. Ubale. It was set out in the affidavit that between the period from 5.8.2005 to 12.6.2007 they were waiting for the court fee stamps. On the last occasion, the respondents were called upon to produce the records to show as to on what basis the aforesaid statement was made. The learned counsel for the respondents states that from the record available with him, there is nothing to explain the same.

2. Apart from that the appeal was preferred on 12.6.2006. The learned counsel has drawn our attention to the assessment order for the Assessment years 1999-2000 and 2000-2001 where the said income has been

treated as agriculture income. Considering the fact that no cause has been shown for delay between 5.8.2005 to 12.6.2006, in our opinion, this is not a fit case to condone the delay. In the light of that motion is dismissed.

**( F.I. REBELLO, J.)**

**(R.S. MOHITE, J. )**

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The Commissioner of Income Tax
Mumbai City 17. ..Appellant.

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Mr.R.G.Bhat for the Appellant.

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**CORAM : F.I. REBELLO &**
**R.S. MOHITE, JJ.**
**DATED : 3RD DECEMBER,2007.**

PC :

1. As the motion is dismissed, appeal is also dismissed. Refund of Court fee as per rules. Certified copy expedited.

**( F.I. REBELLO, J.)**

**(R.S. MOHITE, J. )**